

IN THE UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

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	)	
In re: NFL PLAYERS' CONCUSSION	)	Nos. 18-2012, 18-2225,
INJURY LITIGATION	)	18-2249, 18-2253, 18-2281,
	)	18-2332, 18-2416, 18-2417,
	)	18-2418, 18-2419, 18-2422,
	)	18-2650, 18-2651, 18-2661,
Appellants: Alan Faneca, Roderick	)	18-2724, and 19-1385
Cartwright, Jeff Rohrer, and	)	
Sean Considine	)	

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**FANECA OBJECTORS' REQUEST FOR INDIVIDUAL BRIEF**

The Faneca Objectors submit this request in response to the Court's February 27, 2019 Order soliciting a proposal for consolidated briefing. The Faneca Objectors do not oppose consolidation of these related appeals and do not oppose the proposal submitted by the Locks Law Firm. The Faneca Objectors nonetheless write separately to request that, notwithstanding consolidation, the Faneca Objectors be permitted to file an individual brief of no more than 13,000 words.

This appeal arises out of the district court's award of common-benefit attorneys' fees for counsel's efforts in obtaining and improving the historic class-action settlement in this case. As the only objectors to petition for and receive such an award, the Faneca Objectors are uniquely situated among all appellants in this case. The district court concluded that the Faneca Objectors "are entitled to

compensation for the work they performed for the class” and for their “role in providing benefits to the class.” Dist. Ct. Dkt. 10019 at 23. But in calculating the amount of attorneys’ fees awarded to the Faneca Objectors, the district court erred in not even attempting to estimate the value of the Faneca Objectors’ contributions to the settlement and in failing to conduct a lodestar cross-check to evaluate the reasonableness of the award. This is a legal issue unique to the Faneca Objectors. Those failures provide the Faneca Objectors with unique legal arguments of process and procedure – beyond the argument that the Faneca Objectors’ allocation was unfair – that will not be addressed in the Locks Firm’s proposed joint brief.

Moreover, the Faneca Objectors’ interests are, in some sense, adverse to the other appellants in this case – even the other objectors. With the amount of available attorneys’ fees and expenses fixed at \$112.5 million, appellants who were members of the steering committee (or who performed work at its behest) are incentivized to limit the amount of fees awarded to objectors. Other objectors – including some appellants here – have also challenged the Faneca Objectors’ fee application, *see* Dist. Ct. Dkts. 7161, 7237, or have otherwise sought to claim credit for the fruit of the Faneca Objectors’ efforts, *see* Dist. Ct. Dkt. 7232.

Because they are uniquely situated among the appellants in these appeals, the Faneca Objectors respectfully request that they be permitted to file an individual brief of no more than 13,000 words.

March 11, 2019

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**CERTIFICATE OF SERVICE**

I certify that today, March 11, 2019, the foregoing Faneca Objectors' Request for Individual Brief was filed with the Clerk of the Court for the U.S. Court of Appeals for the Third Circuit using the CM/ECF system, which will send notice of the filing to all parties.

/s/ Steven F. Molo  
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